

# **Exhibit A**



## COUNTY CLERK & DISTRICT CLERK COURT RECORDS SEARCH

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### Case #2020CI20357

**Name**: JOHN F KIRK

**Date Filed** : 10/20/2020

**Case Status** : PENDING

**Litigant Type** : PLAINTIFF

**Court** : 224

**Docket Type** : EMPLOYMENT-DISCRIMINATION

**Business Name** : 2020CI20357

**Style** : JOHN F KIRK

**Style (2)** : vs PENTAGON FEDERAL CREDIT UNION

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# Case History

*Currently viewing all records*

Sequence	Date Filed	Description
S00002	11/24/2020	CITATION PENTAGON FEDERAL CREDIT UNION ISSUED: 11/24/2020 RECEIVED: 11/24/2020 EXECUTED: 11/28/2020 RETURNED: 12/10/2020
P00003	11/18/2020	FIRST AMENDED PETITION
S00001	10/21/2020	CITATION PENTAGON FEDERAL CREDIT UNION ISSUED: 10/21/2020
P00002	10/20/2020	JURY FEE PAID
P00001	10/20/2020	PETITION

Case Number: 2020-CI-20357



2020CI20357 S00002

**JOHN F KIRK  
VS.****PENTAGON FEDERAL CREDIT UNION**

(Note: Attached Document May Contain Additional Litigants.)

IN THE DISTRICT COURT  
224th JUDICIAL DISTRICT  
BEXAR COUNTY, TEXAS**CITATION**

"THE STATE OF TEXAS"

Directed To: PENTAGON FEDERAL CREDIT UNION  
BY SERVING ITS REGISTERED AGENT CORPORATION SERVICE COMPANY  
DBA CSC-LAWYERS INCORPORATING SERVICE COMPANY

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this CITATION and FIRST AMENDED PETITION, a default judgment may be taken against you." Said FIRST AMENDED PETITION was filed on the 18th day of November, 2020.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 24TH DAY OF NOVEMBER A.D., 2020.

DENNIS L RICHARD  
ATTORNEY FOR PLAINTIFF  
14255 BLANCO RD  
SAN ANTONIO, TX 78216Mary Angie Garcia  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205By: *Leticia Leija*, DeputyJOHN F KIRK  
VS  
PENTAGON FEDERAL CREDIT UNION**Officer's Return**Case Number: 2020-CI-20357  
Court: 224th Judicial District Court

I received this CITATION on \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_ M. and ( ) executed it by delivering a copy of the CITATION with attached FIRST AMENDED PETITION the date of delivery endorsed on it to the defendant, \_\_\_\_\_, in person on the \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_ M. at: \_\_\_\_\_ or ( ) not executed because \_\_\_\_\_

Fees: \_\_\_\_\_ Badge/PPS #: \_\_\_\_\_ Date certification expires: \_\_\_\_\_

\_\_\_\_\_, County, Texas

By: \_\_\_\_\_

OR: VERIFICATION OF RETURN (If not served by a peace officer) SWORN TO THIS \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

OR: My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_, \_\_\_\_\_ County.

I declare under penalty of perjury that the foregoing is true and correct. Executed in \_\_\_\_\_ County, State of Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

*Mc*  
Declarant

ORIGINAL (DK002)

FILED  
 11/18/2020 1:54 PM  
 Mary Angie Garcia  
 Bexar County District Clerk  
 Accepted By: Brenda Carrillo

citpps

## CAUSE NO. 2020CI20357

**JOHN F. KIRK,**  
*Plaintiff,*

vs.

**PENTAGON FEDERAL CREDIT  
 UNION**  
*Defendant.*

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IN THE DISTRICT COURT

224<sup>th</sup> JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

**PLAINTIFF'S FIRST AMENDED ORIGINAL PETITION**

**TO THE HONORABLE JUDGE OF SAID COURT:**

NOW COMES, John F. Kirk, hereinafter referred to as Plaintiff or "Kirk", complaining of and about Pentagon Federal Credit Union, hereinafter referred to as Defendant or "PenFed", and for cause of action files this his Plaintiff's First Amended Original Petition, showing to the Court as follows:

**I.**  
**PARTIES AND SERVICE**

1. Plaintiff, Kirk, is a citizen of the United States, the state of Texas and Bexar County.
2. Defendant, PenFed, is a for profit corporation, doing business in and having offices in San Antonio, Bexar County, Texas. PenFed may be served with process by delivering a copy of Plaintiff's First Amended Original Petition to Corporation Service Company, d/b/a CSC-Lawyers Incorporating Service Company, registered agent for PenFed, by certified mail return receipt requested, at 211 E. 7<sup>th</sup> Street, Suite 620, Austin, TX 78701-3218.
3. This is a Level III case.

**II.**  
**JURISDICTION AND VENUE**

4. This Court has jurisdiction over the subject matter and the parties to this case and all conditions precedent to the filing of this suit have been met and venue properly lies in Bexar County, Texas. Plaintiff has dually filed his charge of discrimination with both the Texas Workforce Commission-Civil Rights Division and the Equal Employment Opportunity Commission. All required administrative remedies have been exhausted and all conditions precedent have been satisfied. Plaintiff further avers that this case and these charges of discrimination and retaliation have been brought in a timely manner. This Court has jurisdiction pursuant to Section 21.054 and Section 451.001 of the Texas Labor Code.

**III.**  
**JURY DEMAND**

5. Plaintiff is requesting trial by jury and will tender the statutory jury fee.

**IV.**  
**AGENCY**

6. Whenever in this petition it is alleged that the Defendant did any act or thing, it is meant that Defendant's officers, agents, servants, employees or representatives did such act or thing and that at the time such act or thing was done, it was done with the full authorization or ratification of or by Defendant and was done in the normal and routine course and scope of employment of Defendant's officers, agents, servants, employees or representatives.



**V.  
FACTS**

7. This case is founded upon Defendant's violations of Sections 21.051 of the Texas Labor Code and Breach of Contract. PenFed proudly boasts on the world wide web that PenFed management treats its' employees with integrity: "We always strive to do the right thing. We choose the harder right over the easier wrong." However, when it comes to following the Texas Labor Code, not so much. Kirk enjoyed a career as a credit union executive with favorable reviews. He was instrumental in the smooth transition of PenFed's acquisition of Alamo Federal Credit Union. The Chairman of the Board of Directors at PenFed, Ed Cody, specifically stated to Kirk that he had nothing to worry about and that he would enjoy a long tenure with PenFed. Kirk was advised that his position was being eliminated at PenFed. Kirk's performance was excellent and the assurances from senior management at PenFed led Plaintiff to believe the stated reason for his termination was a pretext for the real reason, age discrimination. After his termination, PenFed attempted to get Plaintiff to release his claim for age discrimination but Kirk refused to do so. On information and belief, Kirk learned that his position at PenFed was never eliminated but was filled by an employee younger than Plaintiff.

8. Plaintiff was 60 years of age and a member of the protected age group. PenFed conducted a "sham layoff" of one person, an employee in the protected age group. Given the promise made by Ed Cody, the conduct by Defendant also amounts to a breach of contract. PenFed failed to act with integrity and clearly did not do the right thing by Kirk.

**VI.  
AGE DISCRIMINATION UNDER SECTION 21.051 OF THE TEXAS LABOR CODE**

9. Plaintiff incorporates by reference the allegations contained in paragraphs 1-8 as if fully rewritten herein. Defendant intentionally discriminated against Plaintiff

based upon his age. By terminating Plaintiff, an individual within the protected age group, and hiring a younger employee, Defendant committed an unlawful employment practice in violation of Section 21.051.

## **VII.** **DAMAGES**

10. By reason of Defendant's acts and conduct, as herein alleged, Plaintiff has been damaged as follows:

a.) Compensatory damages (including emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-economic damages) allowed under the Texas Labor Code.

b.) Economic damages in the form of lost back pay and lost fringe benefits in the past. Economic damages, in the form of lost wages and fringe benefits that will, in reasonable probability, be sustained in the future.

c.) Punitive damages for Defendant engaging in unlawful intentional employment practices and engaging in discriminatory practices with reckless indifference to the state protected rights of an aggrieved individual, like Plaintiff John F. Kirk.

d.) Attorney's fees pursuant to the Texas Labor Code.

11. Pursuant to Rule 47 of the Texas Rules of Civil Procedure, Plaintiff hereby seeks monetary relief over \$200,000.00 but less than \$1,000,000.00 including costs, expenses, pre- and post-judgment interests, and attorney's fees. Plaintiff further requests that the non-expedited rules apply in this case.



**IX.**  
**REQUEST FOR DISCLOSURE**

12. Under Texas Rule of Civil Procedure 194, Plaintiff requests that Defendant disclose within fifty (50) days of the service of this request the information or material described in Texas Rule of Civil Procedure 194.2.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that upon final trial of this cause, Plaintiff has and recovers of and from the Defendant actual damages and punitive damages in a sum within the jurisdictional limits of this Court, pre-and post-judgment interest as allowed by law, attorney's fees, costs of Court, and for such other and further relief, both general and special, at law or in equity, to which Plaintiff may show himself justly entitled.

Respectfully submitted,

\_\_\_/s/Dennis L. Richard\_\_\_\_  
Dennis L. Richard  
SBN: 16842600  
**LAW OFFICE OF DENNIS L.  
RICHARD**  
14255 Blanco Road  
San Antonio, TX 78216  
Telephone: (210) 308-6600  
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3658 CANDLEHEAD LN.  
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R2305H127186-31

CSC-LAWYERS INCORPORATION COMPANY  
211 E. 7TH STREET SUITE 620  
AUSTIN TX 78701-3218

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